

# Disability and Reasonable Adjustments



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## Introduction

A disability discrimination case can be brought by existing employees, job applicants, employees employed on a contract personally to execute any work, apprentices and contract employees, e.g. agency employees or those working for contracted-out services. There is no minimum qualifying service or hours required for an employee to make a claim.

The Equality Act 2010 (EqA) has widely replaced The Disability Discrimination Act (DDA). The EqA can protect large numbers of people with invisible as well as obvious and visible disabilities. It may also protect those with temporary, but long-term, injuries or ill-health, who would not normally think of themselves or be considered by others of having a disability.

Many employees may not identify themselves as disabled and may be reluctant to do so. This can be a sensitive matter. Yet employees covered by the EqA may gain greatly improved employment rights.

According to a report by the Department of Work and Pensions in 2003, every 3 months 2.6% employees (over 600,000 people) become sick or disabled using the definition of disability under the DDA. This compares with only 0.3% (73,000) who would qualify for statutory sick pay or incapacity benefit. Over 2000 cases under the DDA are started each year in the employment tribunals.

The Legal Definition of disability can sometimes be difficult to apply, this guide aims to help advisers and managers identify when an employee is covered by the EqA and to find the necessary evidence. The general legal principles are set out at pages 3 – 11. Then a number of specific disabilities are considered at pages 17 – 57.

Since October 2004, all employers – however small – have been covered by the DDA.

The Equality and Human Rights Commission has published several Codes of Practice (listed in the Bibliography) which explain in detail the application of the EqA with relation to recent case law. These documents will be referred to as the “Code of Practice” from this point forward.

# Types of Discrimination under the EqA

There are a number of different forms of discrimination under the EqA. The following is only a brief summary.

## 1. **Failure to make Reasonable Adjustments**

This duty is at the heart of disability discrimination law. Where any workplace practice or feature of the premises puts a disabled employee at a disadvantage, the employer must make all adjustments which are reasonable to remove that disadvantage.

Many employees and employers do not realise quite how far employers must go to meet this duty. Pages 11 – 16 of this Guide set out the law on Reasonable Adjustments. Pages 17 – 57 suggest adjustments which may be relevant to a variety of different disabilities.

## 2. **Direct Discrimination**

It is unlawful for an employer to treat an employee less favourably *on grounds of his/her* disability than she/he treats or would treat a person without that particular disability. For example, an employer dismisses a disabled employee because she/he has taken 3 months sickness absence, the employer does not dismiss a non-disabled employee who has taken the same amount of sick leave.

It is worth noting that protection against direct discrimination has also been amended to include, discrimination outside the employment field. This would include the provision of goods, facilities and services.

Provided the reason for the different treatment is the person's disability, there is no defence.

## 3. **Discrimination by Association**

This is direct discrimination against someone because they associate with another person who has a disability.

For example: June works as a project manager and is looking forward to a promised promotion. However, after she tells her boss that her mother, who lives at home, has had a stroke, the promotion is withdrawn. This may be discrimination against June because of her association with a disabled person.

## 4. **Discrimination by Perception**

This is direct discrimination against an individual because others think they possess a particular disability. It applies even if the person does not actually possess that disability.

## 5. **Indirect Discrimination**

Indirect discrimination occurs when something is applied in the same way to everybody but has an effect which particularly disadvantages, for example, disabled people. Indirect discrimination may be justified if it can be shown to be a proportionate means of achieving a legitimate aim.

## 6. **Discrimination Arising from Disability**

Discrimination arising from disability occurs when a disabled person is treated unfavourably because of something connected with their disability and the unfavourable treatment cannot be justified. (i.e. if it can be shown that it is proportionate means that is intended to meet a legitimate aim).

Discrimination arising from disability is different from direct discrimination. Direct discrimination occurs when a person is treated unfavourably because of the disability itself. In the case of discrimination arising from disability, the question is whether the disabled person has in practice been treated unfavourably because of something connected with their disability.

## **7. Harassment**

Harassment takes place where, for a reason that relates to the disabled person's disability, the harasser engages in unwanted conduct which has the purpose or effect of violating the disabled person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her.

This type of behaviour is protected in both the employment field and the provision of goods, facilities and services.

## **8. Harassment by a Third Party**

Claims for this type of harassment can occur, when an employee is harassed because of a disability by a customer, patient, etc, and the employer fails to take appropriate action to address the situation.

## **9. Victimisation**

Essentially it is when an employee is punished or treated differently as a result of complaining of disability discrimination or that the employer has not made reasonable adjustments. For example, an employee raises a grievance about disability discrimination and is dismissed as a result.

It does not matter whether the employee raised the issue formally or informally, in a grievance or a tribunal case, on his/her own behalf or on behalf of a colleague who is disabled.

The employer has a defence if the employee's allegation is false and made in bad faith.

## **10. Asking Pre-employment Health Related Questions**

The EqA prevents employers asking questions about a candidate's health prior to a conditional or unconditional offer being made. This provision will help prevent disabled candidates from being unfairly screened out at an early stage of the recruitment process.

However, there are limited circumstances where an employer can ask such questions providing that information would help to:

- decide whether you need to make any reasonable adjustments for the person to undertake the selection process
- decide whether an applicant can carry out a function that is essential ('intrinsic') to the job
- monitor diversity among people making applications for jobs

- take positive action to assist disabled people
- assure yourself that a candidate has the disability where the job genuinely requires the jobholder to have a disability

But in any of the above exceptions, information collected on disability or impairments, should generally be not available to the interview panel, and be on a separate of detachable part of the application form.

## Who is “disabled” under the EqA?

To gain the protection of the EqA, an employee must prove she/he meets the legal definition of disability in the Act.

Whether or not the employee is recognised as disabled in other contexts, e.g. for the purpose of social security benefits, is a different legal test. She/he is not automatically covered just because she/he is in receipt of Disability Living Allowance or because she/he had a statement of Special Educational Needs as a child.

The EqA does not simply cover visible disabilities such as the need to use a wheelchair. It can cover invisible disabilities, eg diabetes and depression, and temporary illnesses or injuries, eg severe back disorders.

Sometimes employees with obvious disabilities do not identify themselves as having a disability.

The question is not whether the named disability is covered by the EqA. It is whether the particular employee with the disability is covered. This will depend on the nature, severity and duration of the disability in the employee’s individual circumstances.

## The Legal Definition: Overview

Section 6(1) of the EqA says:

The Act defines a disabled person as a person with a disability. A person has a disability for the purposes of the Act if he or she has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

This means that, in general:

- the person must have an impairment that is either physical or mental;
- the impairment must have adverse effects which are substantial;
- the substantial adverse effects must be long-term; and
- the long-term substantial adverse effects must have an effect on normal day-to-day activities.

Schedule 1 provides further guidance into definitions and exclusions, and clarification can be sought by reviewing the Code of Practice produced by the Equality and Human Rights Commission: <http://www.equalityhumanrights.com/advice-and-guidance/>

Each element of this definition should be separately considered in the following stages:

1. Is there a physical or mental impairment?
2. Does the impairment have an effect on the employee's ability to carry out normal day-to-day activities in respect of one or more of the capacities listed in the Code of Practice? Is the effect substantial?
3. Is the substantial effect long-term?

## **Substantially Affecting Normal day-to-day Activities**

The requirement that an adverse effect on normal day-to-day activities should be a substantial one reflects the general understanding of disability as a limitation going beyond the normal differences in ability which may exist among people. A substantial effect is one that is greater than the effect which would be produced by the sort of physical or mental conditions experienced by many people which have only 'minor' or 'trivial' effects (this is stated in the Act, **S212(1)**).

**The following considerations should be reviewed when assessing this:**

- **The time taken to carry out an activity**
- **The way in which an activity is carried out**
- **Cumulative effects of an impairment**  
For example, a person whose impairment causes breathing difficulties may, as a result, experience minor effects on the ability to carry out a number of activities such as getting washed and dressed, preparing a meal, or travelling on public transport. But taken together, the cumulative result would amount to a substantial adverse effect on his or her ability to carry out these normal day-to-day activities.
- **Effects of behaviour**  
Account should be taken of how far a person can reasonably be expected to modify his or her behaviour to prevent or reduce the effects of impairment on normal day-to-day activities. If a person can reasonably be expected to behave in such a way that the impairment ceases to have a substantial adverse effect on his or her ability to carry out normal day-to-day activities, the person would no longer meet the definition of disability. For example, when considering modification of behaviour, it would be reasonable to expect a person who has back pain to avoid extreme activities such as parachuting.
- **Effects of environment**
- **Effects of treatment**
- **Progressive conditions**
- **Severe disfigurements**

## **Normal day to day Activities**

The Act does not define what a normal day to day activity is. In general, day-to-day activities are things people do on a regular or daily basis, and examples include shopping, reading and writing, having a conversation or using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport, and taking part in social activities.

## Long Term

The Act states that, for the purpose of deciding whether a person is protected under the act, a long-term effect of impairment is one:

- which has lasted at least 12 months; or
- where the total period for which it lasts, from the time of the first onset, is likely to be at least 12 months; or
- which is likely to last for the rest of the life of the person affected (**Sch1, Para 2**).

## CHECKLIST ON PROVING THE EMPLOYEE HAS A DISABILITY

- Identify the physical or mental impairment.
- Is the condition deemed a disability, eg certified visual impairment, HIV infection, multiple sclerosis, cancer?
- Is it an excluded condition, eg hay fever?
- Identify the related paragraphs of the *Code of Practice*.
- Is the effect substantial?
- If the effect is minor, is it likely to become substantial in the future?
- Is it a condition which is deemed to have substantial adverse effect, eg severe disfigurement?
- When considering the adverse effect, focus on what the employee cannot do or can only do with difficulty or tiredness, as opposed to what she/he can do.
- Consider the effect on normal activities, not hobbies. Include both work and non-work activities.
- Consider the deemed effect without any medication or aid.
- Is the substantial adverse effect long-term (12 months) or recurrent?
- Consider what medical evidence is necessary, eg to prove
  - the nature of the impairment
  - the nature and seriousness of the effects
  - when the effects started and how long they are likely to last
- Consider the cost of medical evidence and whether to instruct an expert jointly with the employers.
- Consider the appropriate medical expert: GP, Treating Consultant, Independent Consultant.

## Good practice for Advisers / Managers

- Make sure the location, timing and form of advice and assistance is accessible.
- Do not make assumptions about the effect of an impairment. The employee is the person who knows best the effect on his/her condition.
- Where the employee does not identify him/herself as having a disability, raise the possibility of him/her falling within the EqA with sensitivity. Explain the broad coverage of the Act.
- Ask questions sensitively. Explain why the law requires a negative approach.
- Be aware that many employees may “play down” the effects of their disability. Do not rely on employees to provide lots of examples. Make gentle suggestions.
- The employee may only give examples of his/her inability to do his/her job or a favourite hobby. It is essential to find out what “normal” activities she/he cannot do.
- Do not simply ask what the employee is unable to do at all. Ask him/her if there is anything that is painful or tiring to do.
- It helps to know something about the relevant disability before interviewing an employee. There are specialist organisations for many disabilities which give useful information. Some key websites are listed at pages 17 – 57.
- When obtaining medical reports, ask precise questions of the medical experts.
- When writing a witness statement for the tribunal, if disability needs to be proved, give as many examples as possible, especially (but not exclusively) those which reflect the examples in the *Code of Practice*.
- Be careful that the employee does not give a misleading impression to the tribunal by the way she/he conducts him/herself at the hearing. For example, if she/he has taken pain-killers in order to be able to sit still for long periods, ensure she/he explains this during his/her evidence.

## The Duty to make Reasonable Adjustments

The most important part of the law against disability discrimination is the duty on employers to make reasonable adjustments. Basically this means employers must take reasonable steps to eliminate or reduce the disadvantage between disabled people and non disabled people, eg to adjust hours of duties, buy or modify equipment or allow time off, so that the employee can carry out his/her job.

The duty is set out in Section 20 of the act, and employers are expected to take reasonable steps to:

- Avoid the substantial disadvantage where a provision, criterion or practice applied by or on behalf of the employer puts a disabled person at a substantial disadvantage compared to those who are not disabled. s.20(3)
- Remove or alter a physical feature or provide a reasonable means of avoiding such a feature where it puts a disabled person at a substantial disadvantage compared to those who are not disabled. s.20(4)
- Provide an auxiliary aid (which includes an auxiliary) where a disabled person would, but for the provision of that auxiliary aid, be put at a substantial disadvantage compared to those who are not disabled. s.20(5)

Employers are expected to act positively and constructively. In the key case of *Archibald v Fife Council* [2004] IRLR 651, HL The House of Lords said:

**The DDA does not regard the differences between disabled people and others as irrelevant. It does not expect each to be treated in the same way. The duty to make adjustments may require the employer to treat a disabled person more favourably to remove the disadvantage which is attributable to the disability. This necessarily entails a measure of positive discrimination.”**

The House of Lords' use of the term “positive discrimination” is unfortunate. It is simply a case of removing unnecessary barriers, to place disabled people on an equal footing. However, it does illustrate how far employers must go.

### What kind of Adjustments?

The Code of Practice issued by the Equality and Human Right Commission provides a comprehensive selection of scenarios which could be applied in many situations. When considering a reasonable adjustment you may wish to consider the factors below:

- (a) making adjustments to premises
- (b) allocating some of the disabled person's duties to another person;
- (c) transferring him/her to fill an existing vacancy;
- (d) altering his/her hours of working or training;
- (e) assigning him/her to a different place of work or training;
- (f) allowing him/her to be absent during working or training hours for rehabilitation, assessment or treatment;
- (g) giving, or arranging for, training or mentoring (whether for the disabled person or any other person);

- (h) acquiring or modifying equipment;
- (i) modifying instructions or reference manuals;
- (j) modifying procedures for testing or assessment;
- (k) providing a reader or interpreter;
- (l) providing supervision on other support.

These are only suggestions - a tribunal may expect the employer to have made other appropriate adjustments, which are not in the list.

Where an employer becomes so disabled that she/he is no longer able to do his/her job at all, a reasonable adjustment may be made to move him/her to another job, even at a slightly higher grade, without competitive interview. *Archibald v Fife Council* [2004] IRLR 652, HL

An employer must not give priority to other categories of redeployment, eg those at risk of redundancy, over a disabled employee. *Kent County Council v Mingo* [2000] IRLR 652 HL

Paying full pay is a potential reasonable adjustment, where the employee is off sick because other reasonable adjustments have not been made. *Nottinghamshire County Council v Meikle* [2004] IRLR 90, EAT

In other circumstances, it will rarely be a reasonable adjustment to pay full pay for disability-related absence if there is no contractual entitlement.

## **Reasonable Adjustments: Some Ideas Appropriate to many Disabilities**

Any of the options could be carried out on a temporary, occasional or permanent basis. As most conditions vary greatly in their severity and in the symptoms for every individual, it is essential to ask the employee what areas of difficulty s/he has at work and which solutions might be useful. It is also important that an employer does not make assumptions. An employer should start by carrying out a proper assessment (sometimes known as a 'risk assessment') of what may be required. Failure to do such an assessment is not usually regarded in itself as a failure to make reasonable adjustment, but it is likely to lead to such a failure.

**In all cases of disability these suggestions should be reviewed to see if they will make a relevant reasonable adjustment. However, in the sections that detail specific conditions, adjustments that are pertinent to that condition should also be considered.**

### **Flexible hours, work schedules and breaks**

This may entail allowing the employee to work part-time, fewer hours or to job share, or to alter hours, eg to avoid rush-hour travel or because she/he feels less well in the mornings or evenings. The employee may find it suitable to spread the work over a longer period with more frequent breaks. Employees with only episodic attacks eg asthma or migraine, may be happy to make up the hours on occasions, although this is not to suggest that they are not entitled to sick leave.

## **Home working**

This method of reasonable adjustment is entirely dependent on the job, but with the advent of sophisticated IT technology, it is becoming more feasible than employers first reaction might always suggest. Home working, on a temporary, permanent or part-time basis, is a very useful solution for a number of conditions, because it gives increased flexibility in hours, cuts out difficult travel and may provide a more conducive environment. Despite the reluctance of employers, it is a suggestion which comes up frequently in tribunals. Home working, at least temporarily, is suggested as a possibility in some circumstances by the Code of Practice and by the Employment Appeal Tribunal in several cases. In one particular case, it was said that an employee should be allowed to work from home on a temporary basis to maintain his/her skills, even if the job could not permanently be done from home. *Royal College of Nursing v Ehdiaie* EAT/0789/00.

## **Disability Leave**

It is wrong to assume that a disabled employee will be absent from work any more than anyone else. However, it is possible in some cases that the employee will need additional time off, either because of illness related to the disability, eg asthma or migraine attacks, or for routine medical checks, eg to have a hearing aid checked with an audiologist.

Many employers have a sickness attendance policy whereby employees are monitored, counselled, discipline and eventually dismissed, as their absence level reaches certain levels. An employer would probably be expected to make a reasonable adjustment by not counting a certain amount of leave for disability related reasons into such a scheme or, even better by having a separate scheme for disability-related absence. However, this is not complete protection. Tribunals are unlikely to accept that an employer can never act on any absences, however long, just because they are disability-related. There is no clear guidance in the Code of Practice as to how much extra absence it would be reasonable for an employer to allow. It all depends on the circumstances.

It will rarely be a reasonable adjustment to pay an employee for disability-related absence, if she/he has no general contractual right to paid sick leave *O'Hanlon v Commissioners for HM Revenue & Customs* [2007] IRLR 404, CA. But if the whole reason the employee is off sick is because the employer has failed to make the reasonable adjustments which would enable him/her to return to work, there is a good argument that she/he should receive full sick pay. *Nottinghamshire County Council v Meikle* [2004] IRLR 703, CA.

## **Gradual Return to Work**

Where the employee has been absent for some time due to his/her disability, a phased return to work is likely to be a desirable option. The return can be phased in terms of number of daily hours, number of days/weeks or type of duties taken on. It can be combined with partial home working. In a case where a secretary had been absent while with depression, the EAT suggested that a phased return to work might be a reasonable adjustment. *Cosgrove v Caesar & Howie* [2001] IRLR 653, EAT. However, the tribunal is unlikely to accept that this is a reasonable adjustment if the employee cannot suggest a date when she/he will be ready to start the phased return. *Home Office v Collins* [2005] 144 EOR 29, CA.

## **Reallocation of some Duties**

It may also be possible for the employee to swap certain duties with a colleague on a temporary or permanent basis.

## **Transfer to another Job**

It is unlikely that a tribunal would expect an employer to create an entirely new job for a disabled employee, but it may be a reasonable adjustment to reallocate or swap duties (see above), or to transfer the employee to a different location or to an existing vacancy.

Other adjustments may also be needed to ensure the employee can successfully apply for a post. For example, in a case concerning an employee with colitis, the employer failed to make reasonable adjustment because the interview panel was not informed of the employee's disability so that the panel could assist him. The employee performed badly at the interview because he was unwell with stress as a result of other failures to make reasonable adjustments.

The duty to make reasonable adjustments may go further than enabling the employee to apply for vacancies. It would be unlawful to give redundant employees priority over any vacancies ahead of an employee needing redeployment due to a disability. *Kent County Council v Mingo* [2000] IRLR 90, EAT.

Moreover, many tribunals expect an employee to be slotted into an existing suitable vacancy without being interviewed or having to compete for it against employees who do not have a disability. There are strong arguments for this following the positive action approach urged by the House of Lords in the key case *Archibald v Fife Council* [2004] IRLR 652, HL. Indeed, in *Archibald*, the House of Lords said it could be a reasonable adjustment, depending on circumstances, to move an employee to a slightly higher grade without competitive interview. In that case, a manual employee at the lowest grade had to be transferred to office-based duties, but the lowest grade of the non-manual scale was higher than the lowest manual grade.

## **Acquiring or Modifying Equipment**

The range of equipment available is enormous and the specialist disability organisations provide the best advice on what is suitable. Whether or not an employer is expected to provide special equipment will depend on its effectiveness, the cost and the employer's resources. However, the Access to Work Scheme covers the cost of much of this equipment. Also, if an employer takes an employee on, knowing adjustments will be needed, she/he should see these through. *Williams v J Walter Thompson Group Ltd* [2005] IRLR 376, CA.

Surprisingly, many cases involve employers; failure to take relatively inexpensive and easy steps to provide specialist equipment. The following difficulties are common and could amount to failure to make reasonable adjustments:

- The equipment is not ready and in place when the employee starts the new job, even though the employer knew when she/he recruited the employee of the need to acquire such equipment. Often it is left to the employee to make the arrangements.
- It takes a considerable time following a request by an employee for the equipment to be supplied. Delays often occur in getting an appropriate assessment or in following

up on an assessment and recommendation. The employee often has to make repeated requests.

- When the equipment eventually arrives, there are delays in getting it installed, and further delays in training the employee on its use.
- All the above delays lead to stress for the employee, which can exacerbate his/her disability and work performance, and lead to tensions or worse in the working relationship.

## **Access to work**

Is a scheme that is run by Jobcentre Plus, it aims to help employers with costs associated with reasonable adjustments. The amount of financial assistance will vary depending on the type of adjustment required and the length of service the employee has with the employer.

The application process is managed by an Access to Work Adviser, who will investigate the employee's needs and produce a support package that will enable the employee to undertake/continue the role.

Once a support package has been decided upon, the Access to Work Adviser will submit the proposal to Jobcentre Plus for approval. Once approved, Jobcentre Plus will contact the employer and employee to tell them the approved level of support and the grant available. It is the responsibility of the employer to arrange the agreed support and buy the necessary equipment. The employer can then claim repayment of the approved costs from Access to Work.

Access to Work can also provide financial assistance with: support workers, transportation costs to work (if the employee is not able to use public transport) and communicator support for interviews.

Disability Employment Adviser are based at the local Jobcentre Plus office:

Disability Employment Advisers  
Jobcentre Plus  
Windsor House  
Edward Street  
Brighton  
BN2 0LN.

Disability Employment Advisers  
Jobcentre Plus  
Kingsley House  
31 Boltro Road  
Haywards Heath  
West Sussex, RH16 1BP

To apply for Access to Work funding contact the regional office:

Jobcentre Plus  
Access to Work Operational Support Unit  
Nine Elms Lane  
London SW95 9BH

Telephone: 020 8426 3110 / Fax: 020 8426 3134  
Textphone: 020 8426 3133  
Email: <mailto:atwosu.london@jobcentreplus.gsi.gov.uk>

## **Training of Managers and Co-employees**

Much discrimination against disabled employees occurs due to lack of awareness of the barriers they face. Training at the outset could make a big difference. Tribunals often suggest that awareness training for managers or co-employees would have been helpful. The Employment Appeal Tribunal in Scotland has said the provision of deafness awareness training for other employees can be a reasonable adjustment, although attendance need not be compulsory. *Simpson v West Lothian Council* [2005] 137 EOR 26, EAT. The EAT is probably wrong to add this qualification. Compulsory training, at least of supervisors and managers, would surely be a reasonable adjustment in certain circumstances.

Linked to this is the need in some circumstances to ensure the co-operation of co-workers with any adjustments.

## **Reasonable Adjustments in Disciplinary or Grievance Procedures**

There have been several cases where tribunals have expected a flexible approach to the handling of disciplinary or grievance procedures (eg depending on the nature of the disability):

- Relaxing the time limits for lodging grievances and appeals against disciplinary action.
- Relaxing requirements for format of grievances, eg not insisting on forms being completed.
- Ensuring the employee fully understands the issues. Providing interpreters/signers as necessary. Allowing a friend or helper outside work to accompany the employee.
- Establishing preferred mode of communication, eg allowing written submissions before or after the hearing rather than relying on an oral representation.
- Flexibility regarding hearing dates. Waiting until the employee is well enough to attend.
- Allowing full preparation time. The employee should be informed well in advance of the hearing date and sent all relevant papers well in advance.
- Not leaving the employee waiting a long time in the waiting room.
- Adopting a non-threatening manner and mode of speech.
- Allowing more time during the hearing and breaks.
- If travel is difficult, conducting the hearing by telephone, at home or at another suitable venue.
- Ensuring the employee is not disciplined for conduct which can be reasonably explained by his/her disability, eg a deaf person apparently disobeying a verbal instruction or someone losing their temper when in pain.

The fact that disciplinary proceedings are pending is not necessarily a reason not to proceed with other reasonable adjustments such as relocation. *Home Office v Beart* [2003] IRLR238, CA.

# AGORAPHOBIA

It is estimated that up to 5 million people suffer from agoraphobia, which is the most common of all phobias.

Agoraphobia is a complex phobia which can manifest itself in several different ways and with greatly varying severity. Most commonly it entails fear of travelling away from a person's "safe" place (usually their home), but it is often linked to fear of being trapped somewhere (similar to claustrophobia). A person with agoraphobia may fear being far from home or leaving home altogether or fear unfamiliar routes and places, wide open spaces, crowded places, confined spaces such as shops, restaurants, trains or lifts, standing in long lines, or being left alone. When in a feared place, she/he will often suffer a panic attack, with severe physical symptoms (palpitations, chest or stomach pain, headache, fast breathing). She/he may become anxious even thinking about going to such places and she/he will tend to avoid them.

## The Legal Definition

### Impairment

Mental

### Reasonable Adjustments

Always consult the employee. Adjustments depend on the severity and nature of the employee's condition. Possibilities are:

- Home-working
- Ensuring the employee does not need to travel to unfamiliar places or attend other offices or restaurants, or providing trusted colleagues to travel with the employee.
- Suitable workspace, neither too confined, nor open-plan.

### Sources of Further Information

Anxiety UK (formerly the National Phobics Society) is at [www.phobics-society.org.uk](http://www.phobics-society.org.uk) Tel: 0870 7700 456

No Panic is at: [www.nopanic.org.uk](http://www.nopanic.org.uk) Tel: 0808 808 0545 (confidential helpline)

# ARTHRITIS

Arthritis is a leading form of disability and affects many people of all ages. The Arthritis Research Campaign says that over 7 million adults in the UK have long-term health problems due to arthritis and related conditions. There are over 200 types of arthritis and rheumatic disease. Arthritis is the second most common cause of time off work.

Arthritis primarily affects areas in and around the joints, eg in hands, knees and hips. By far the most common form is osteoarthritis, a degenerative joint disease. Rheumatoid arthritis is one of the most disabling types, where the joints become inflamed. Lupus is also a serious disorder, which mainly affects young women, particularly those of African Caribbean origin. Gout affects small joints, especially the big toe. Ankylosing Spondylitis affects the spine.

Arthritis causes pain, stiffness and inflammation in the joints, which can lead to permanent damage and weakness. Systemic forms of arthritis can damage the whole body. Certain forms of arthritis can cause limb shortening or deformity. Arthritis can cause difficulty standing, walking, sitting, lifting, reaching, making repetitive movements, dressing, taking a bath, gripping things, opening packages, washing hair, brushing teeth, lifting dishes out of an oven, using a pair of scissors, cutting food, lifting a baby etc. Systemic arthritis may be treated by steroids, which can also cause health problems.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

Always consult the employee. As with other “invisible” conditions, employers and colleagues may not take arthritis seriously. It tends to be associated with older people complaining about small “aches and pains”. Appropriate adjustments will be of the kind suited to conditions such as RSI (p51), Shoulder, Arm or Hand Impairment (p55), Back Impairment (p22) or Mobility Impairment (p47).

### Sources of Further Information

Useful websites: The Arthritis Research Campaign at [www.arc.org.uk](http://www.arc.org.uk) and Arthritis Care on [www.arthritiscare.org](http://www.arthritiscare.org) are full of information. See also the National Rheumatoid Arthritis Society at [www.rheumatoid.org.uk](http://www.rheumatoid.org.uk)

Particularly good on workplace accommodations are two American sites: the Arthritis Foundation at [www.arthritis.org](http://www.arthritis.org) and Job Accommodation Network at [www.jan.wvu.edu/media/arth.htm](http://www.jan.wvu.edu/media/arth.htm) .

# ASTHMA

Asthma is very common. Approximately 5 million people in the UK have asthma, of which 3.7 million are adults.

Asthma involves a narrowing of the airways of the lung due to tension or spasm of the muscles in the bronchial walls. It can be triggered by various factors including allergies (eg to animals or house-dust mites), irritants (eg cigarette smoke, chemical fumes, aspirin and other drugs, air fresheners and furniture polish), viral infections (colds or flu), exercise, stress or excitement. Poor ventilation, damp and building work can aggravate these factors.

The symptoms, which vary from very mild to very severe, include tightness in the chest, shortness of breath, coughing and wheezing, fatigue and in severe cases, cessation of breathing. An asthma attack can seem to occur very suddenly and symptoms can become progressively worse if untreated. Asthma is usually controlled by minimising contact with triggers and use of medication, normally a short-acting reliever inhaler which can immediately relieve symptoms, and often a long-acting preventer medication (inhaler or tablets).

Asthma UK estimates that each year, 750,000 employees who already have asthma, find things at work trigger their symptoms. This work-related asthma is very commonly triggered by cigarette smoke, but other factors can be latex gloves, paints and dyes, chlorine, dust, cold air.

It is estimated that 3000 people per year develop “occupational asthma”. This is triggered in people who did not previously have asthma, and breathing in substances at work. Early diagnosis is important as it is potentially curable. Common causes are wood dust, spray-painters, people working with chemicals or in baking and flour industry.

## The Legal Definition

Physical

## Reasonable Adjustments

The employer should consult the employee about triggers and take steps to avoid these, eg:

- Clean, smoke-free work environment; non-toxic and unperfumed cleaning products and office supplies.
- The employee should be moved if there are any building or repair works causing dust.
- If necessary, relocation away from irritants.
- If the employee is sensitive to humidity, hot or cold air, these should be controlled by air conditioners, humidifiers, heaters.
- There should be ready access to fresh air by means of windows which open and additional rest breaks.
- Exposure to known causes of occupational asthma should be avoided by special equipment, cleaning, supervising and training

- If the employee finds movement difficult, possibilities are ground floor working, lifts, accessible parking space, home-working.

## **Sources of Further Information**

Asthma UK's website lists symptoms, triggers and treatments on [www.asthma.org.uk](http://www.asthma.org.uk) In 2004, it launched "Asthma at Work – Your Charter" in partnership with the Health and Safety Executive, employers and trades unions. This is regularly updated, so is easiest to find by a search. The January 2009 version at [www.asthma.org.uk/health\\_professionals/ordering\\_materials/asthma\\_at\\_work\\_your.html](http://www.asthma.org.uk/health_professionals/ordering_materials/asthma_at_work_your.html) and sets out 5 recommendations to employers to reduce asthma in the workplace.

There is a section on occupational asthma on the Health and Safety Executive website at [www.hse.gov.uk/asthma](http://www.hse.gov.uk/asthma)

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/Respiratory.html](http://www.jan.wvu.edu/media/Respiratory.html) has useful suggestions on its fact sheet about respiratory impairments.

# AUTISM OR AUTISTIC SPECTRUM DISORDER

Autism is not a mental illness, it is a developmental disability. Its effects range enormously from mild to severe. A minority of people with autism also have learning difficulties, but others have average or above average intelligence. Asperger's Syndrome is a form of autism with many similarities.

It is estimated that there are over 500,000 people in the UK with autism, of whom only 6% of adults are in work. Only 12% of adults with Asperger's Syndrome or high functioning autism are in work.

Autism affects the way people interact with others and process information. People with autism find it hard to think in the abstract, adapt to change, interpret body language and tone of voice, empathise with others and communicate socially.

## The Legal Definition

### Impairment

Mental

### Reasonable Adjustments

Suitable adjustments, depending on the individual, could include:

- Communication in concrete non-ambiguous terms
- Following verbal instructions with written instructions
- Giving clear guidance and explanations for everything; explicitly requesting any necessary action
- Giving feedback during work
- Identified priorities; breaking down tasks into smaller tasks and stages
- Giving more time to learn new tasks; providing a colleague to work alongside in early stages; clear and structured training
- Flexible hours if rush hour traffic is stressful
- In interviews, specific and closed questions, eg about employee's experience; no abstract questions; interpreter in interview to re-word questions

### Sources of Further Information

The National Autistic Society is on tel: 0207 833 2299, web: [www.nas.org.uk](http://www.nas.org.uk)

'The Undiscovered Workforce: information for employers' and 'The undiscovered workforce: looking for a job' can be downloaded from the National Autistic Society's website, by searching 'The undiscovered workforce' on the sites search engine.

It explains the key effect of the disability and is full of useful tips and adjustments.

# BACK IMPAIRMENT

A 2005 survey carried out for the Chartered Society of Physiotherapists found 68% of adults had been struck down with back pain at least once in the previous 12 months. A third of those affected experienced five or more episodes over the course of a year. Although back pain is widespread, it is extremely variable in its severity and duration. Whether an employee has a disability under the EqA very much has to be assessed on a case-by-case basis.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

The Health and Safety Executive says on its website “tackling back pain needs good management and a partnership approach”, always ask the employee. Adjustments, depending on the nature and degree of disability, may include:

- Training on proper lifting techniques
- Assistance with lifting or mechanised lifting
- Light duties only
- Ergonomic chair and workplace design
- If there is a need to stand for prolonged periods – anti-fatigue mat and stools to lean against
- Automatic stapler
- Trolleys to move files
- Locating frequently used supplies and tools to waist height
- Automatic door opening
- Reduction of physical exertion
- Mobility aids if long-distance walking is necessary
- Accessible parking
- Nearby toilets
- Providing an occupational physiotherapy service

### Reasonable Adjustments

The Health and Safety Executive has a brief section on musculoskeletal disorders including back pain on its website: [www.hse.gov.uk](http://www.hse.gov.uk)

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/Back.html](http://www.jan.wvu.edu/media/Back.html) has useful suggestions on its fact sheet about back impairments.

# CANCER

## The Legal Definition

Although many people get discriminated against because they have or have had cancer, in the past it has been difficult to fit many instances of cancer within the artificial definition of disability in the DDA. Cancer is now deemed a disability as soon as it is diagnosed.

## Reasonable Adjustments

Always ask the individual, but the most likely adjustments to be required would be those to alleviate stress and fatigue or weakness, eg:

- Reduced or changed working hours or flexi-time
- Increased rest periods and self-paced workload
- Reduction in stress
- Arrangement of workplace so less physical exertion is necessary
- Controlled workplace temperature

## Sources of Further Information

There is a cancer fact sheet on the American website, the Job Accommodation Network at [www.jan.wvu.edu/media/canc.htm](http://www.jan.wvu.edu/media/canc.htm)

A guidance report, "Cancer and working: guidelines for employers, HR and line managers" produced jointly by Cancerbackup, the CIPD and the Working with Cancer group, is available on the CIPD website: [www.cipd.co.uk/subjects/health/general/cncrwrkg.htm](http://www.cipd.co.uk/subjects/health/general/cncrwrkg.htm)

# CEREBRAL PALSY

Cerebral palsy is not an illness. It is a physical impairment, usually caused by failure of part of the brain to develop before birth or in early childhood. The main effect is difficulty in movement, which may affect hands, arms, legs or feet, and sometimes face and tongue muscles, causing grimacing and drooling. Muscles may be stiff, weak or shaky. There are different types of cerebral palsy and the level of disability can vary enormously. Some people may simply move a little awkwardly. Others may be unable to walk at all. As well as difficulty maintaining balance or walking, the effects can include poor coordination; abnormal movements; loss of control of posture; difficulty eating; incontinence; difficulty with fine motor tasks, eg writing, using scissors, turning pages or doing up buttons; speech difficulties.

Sometimes other parts of the brain are also affected, causing difficulties with sight, hearing, touch and concentration. About 10% of adults also have epilepsy. Mental abilities are not necessarily impaired at all, but a proportion of people will have moderate or severe learning difficulties.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

Always consult the employee. Suitable Reasonable Adjustments will vary but could include some of those suitable to people with MS (p50), Visual impairment (p56), Hearing impairment (p35), RSI (p51), Learning difficulties (p41) or Mobility (p49).

An employer may be under a duty to make physical arrangements for the employee to go to the toilet or to accommodate an external carer to help the employee do so. However, this does not go as far as a duty actually to provide the carers to attend to an employee's personal needs *Kenny v Hampshire Constabulary* [1999] IRLR 76, EAT.

## Sources of Further Information

Useful websites are Scope on [www.scope.org.uk](http://www.scope.org.uk), the National Institute of Neurological Disorders and Stroke (cerebral palsy section) on [www.ninds.nih.gov](http://www.ninds.nih.gov), and the cerebral palsy fact sheet on the Job Accommodation Network site: [www.jan.wvu.edu/media/cere.htm](http://www.jan.wvu.edu/media/cere.htm)

# DEPRESSION

Depression is a very common mental health problem. Although everyone feels sad or fed up on occasions, for some people depression can be an illness interfering with their ability to live a normal life. It is estimated that 7-12% of men and 20-25% of women experience diagnosable depression at some point in their lives. GPs often write “stress” on a sick note to avoid stigma, when they are in fact treating depression.

The World Health Organisation’s International Classification of Diseases (WHO ICD) says the most typical symptoms of depression are depressed mood, loss of interest and enjoyment, and reduced energy leading to increased fatigability and diminished activity. Marked tiredness after only slight effort is common. Other symptoms are reduced concentration and attention, disturbed sleep, diminished appetite, reduced self-confidence, ideas of guilt and unworthiness, bleak views of the future and ideas of self-harm.

Depression is often triggered by traumatic life events which are unrelated to the workplace situation. However depression, anxiety and related mental health problems can also be caused or exacerbated by problems at work, eg unrealistic workloads, too high expectations, long hours and bullying. The Health and Safety Executive (HSE) says stress at work is a serious problem. It defines stress as the adverse reaction people have to excessive pressure or other types of demand placed on them. The HSE has commissioned research which indicates that up to 5 million people in the UK feel “very stressed” by their work, with about half a million experiencing work-related stress at a level they believe is making them ill.

As well as general depression, there are specific conditions such as Post Natal Depression, Manic or Bipolar Depression and Seasonal Affective Disorder. For related conditions, see Mental Health Issues on p45.

## The Legal Definition

### Impairment

#### Mental

As a mental illness, the DDA originally required employees to prove they had a clinical well-recognised condition. This is no longer necessary. It will still be useful if a particular condition can be identified, but it should be enough just to prove substantial adverse effects on day-to-day activities. It will not be enough to show the tribunal a series of medical certificates with such loose terms as “stress” or “anxiety”. Even “depression” written on a medical note may not mean it was a formal diagnosis. A more specific medical report will be necessary.

As mentioned above, the WHO ICD lists Depressive Episodes as well as a whole range of other specific illnesses. “Stress” is not regarded as an impairment in itself unless it amounts to a stress condition, eg Post-Traumatic Stress Syndrome.

## Reasonable Adjustments

Always consult the employee. Appropriate adjustments depend on each individual and the nature of their difficulties. Possibilities include:

- Shorter, adjusted or flexible hours.
- Longer or more frequent breaks.
- Full or partial home-working.
- Time-off for counselling; allowing personal telephone calls at work for support.
- Allowing the employee to listen to soothing music, through headphones if necessary.
- Natural light in workspace.
- To help with concentration: reducing distraction and interruptions; private office or workspace; breaking large tasks down into small stages.
- Allowing meetings to be recorded or providing written notes/minutes afterwards.
- Not ignoring symptoms of stress or depression.
- If the employee is off sick, not pressurising them by setting deadlines for return.
- Staged return to work in terms of hours, days and workload.
- Ensuring the employee received welcome from colleagues and managers on return; training supervisors on positive response; ensuring no isolation or bullying from colleagues.
- Ensuring employee returns to a clean in-tray.
- On return, reviewing physical environment; briefing employee on social and work developments; planning workload and support; discussing possible adjustments.
- Dealing with any underlying cause of stress eg bullying, excess workload.
- Provision of ongoing positive support.
- Careful handling of any disciplinary hearings, with flexibility and good notice of dates, allowing a companion of choice, giving full detail and information in advance.

## Sources of Further Information

MIND has a useful website at [www.mind.org.uk](http://www.mind.org.uk) There is an excellent publication from Mind Out for Mental Health 'The Line Managers' Resource – a practical guide to managing and supporting mental health in the workplace' available at [www.mindfulemployer.net/Line%20Managers%Resource.pdf](http://www.mindfulemployer.net/Line%20Managers%Resource.pdf)

There is a fact sheet on Depression as well as on different disorders on the informative website of the Mental Health Foundation, [www.mentalhealth.org.uk](http://www.mentalhealth.org.uk) Shift (a five year, DoH funded initiative to tackle the stigma and discrimination surrounding mental health issues in England). Shift has published the "Line Managers' Resource" – a booklet and website that gives advice and information for managing and supporting people with mental health problems in the workplace. It also gives advice and information for employees to help them assess their own needs and plan for meetings with their manager:

<http://shift.org.uk/employers>

The Health and Safety Executive has published Management Standards regarding stress, which are a useful measure for assessment and support. These are available on its website at [www.hse.gov.uk/stress/index.htm](http://www.hse.gov.uk/stress/index.htm) there is a companion ACAS booklet "Stress at Work" available at [www.acas.org.uk/index.aspx?articleid=782](http://www.acas.org.uk/index.aspx?articleid=782)

The TUC's 'Representing and supporting members with mental health problems at work: Guidance for trade union representatives' is available at [www.tuc.org.uk/extras/mentalhealth.pdf](http://www.tuc.org.uk/extras/mentalhealth.pdf)

See also section on Mental Health (p45).

# DIABETES

Diabetes UK estimates that 1.8 million people in the UK have diabetes and probably another million have it without realising.

Diabetes mellitus is a condition when the amount of glucose (sugar) in the blood is too high because the body cannot use it properly. Insulin is the hormone which helps glucose correctly enter the cells of the body. There are two main types of diabetes. Type 1 (also known as insulin dependant diabetes) occurs when the body is unable to produce any insulin, and usually appears before the age of 40. Type 2 (non-insulin dependant diabetes) occurs when the body cannot make enough insulin or use it properly. Type 2 tends to develop over the age of 40 and its symptoms are usually less severe.

Diabetes may be controlled by insulin tablets or by diet alone. Type 2 may not need insulin injections or tablets. Without treatment, people with diabetes may feel tired all the time and need constantly to pass urine. This is caused by the high levels of blood glucose (technically known as “hyperglycaemia”).

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

Always ask the employee. A few jobs are barred to people on insulin and some others may be dangerous to someone with a history of severe hypos. In general, however, a person should be perfectly able to work normally if appropriate adjustments are made. Depending on the individual, these could include:

- Allowing food and drink at the workstation, to help regulate blood sugar
- Allowing the employee time away from his/her desk so she/he can test sugar levels or make an injection
- Timing between insulin injections and food ingestion can be crucial and the employee should be given flexibility as well as reliable breaks
- A suitable location for blood testing and injecting, and somewhere to dispose of lances and needles
- Avoiding variable shifts, particularly overnight, as these disrupt timing of meals and injections and provide irregular stress levels
- Making an allowance regarding sickness absence, including general viruses and infections

### Sources of Further Information

Diabetes UK has a good website at [www.diabetes.org.uk](http://www.diabetes.org.uk) also informative is a website run by the West Suffolk Hospitals NHS Trust: [www.diabetessuffolk.com](http://www.diabetessuffolk.com)

Although an American website, the Job Accommodation site at [www.jan.wvu.edu/media/Diabetes.html](http://www.jan.wvu.edu/media/Diabetes.html) has useful suggestions on its diabetes fact sheet.

# DISFIGUREMENT

The charity Changing FACES estimates that over 1 million people in the UK have a disfigurement to the face, hands or body from many different causes. One in 111 people have a significant disfigurement to their face from birth, scars from accidents, cancer surgery, skin conditions and facial paralysis, eg caused by stroke, cleft lip and palate, to name just a few. Just the simple act of using public transport to get to work can be daunting and awful experience due to staring, comments and sometimes even outright rudeness.

Unfortunately, a public attitude survey conducted in 2008 suggests that 9 out of 10 people have unconscious (or conscious) negative attitudes towards people with disfigurement, This can translate into considerable disadvantage at work.

## The Legal Definition

### Impairment

Most obviously physical, but it can be accompanied by lack of confidence and self-esteem, which can lead to depression (a mental impairment).

### Reasonable Adjustments

The most important adjustment is for employers to ensure that disfigurement is considered and included in relevant policies and to change the culture of the workplace to ensure there is no harassment or teasing and that workplace decisions, eg as to recruitment, promotion, client assignments, are not consciously or unconsciously based on physical appearance. In some cases, flexibility regarding dress codes will be appropriate if requested by employees, but there is a fine line between allowing a self-conscious employee to dress in a way she/he feels comfortable or, eg avoid public speaking, and imposing such requirements on a employee. Changing Faces can work with both the employee and the employer to develop appropriate support and strategies ensuring that the employee with the disfigurement can do their job with confidence and to the best of their ability. For example, a swimming instructor with a disfigurement on their back may need reasonable adjustments such as awareness training for colleagues, whilst someone with a facial disfigurement, in a customer facing role, may need a strategy in place if a customer refuses to be served by them as reasonable adjustment.

## Sources of Further Information

Changing faces has a useful website at [www.changingfaces.org.uk](http://www.changingfaces.org.uk) and should be a good source of advice, or contact them directly on 0845 4500 275. They also have self help literature which is free to those with a disfigurement.

## DYSLEXIA

The British Dyslexia Association says around 4% of the population is severely dyslexic and a further 6% have mild to moderate dyslexia. This means up to 2.9 million employees may be affected.

There is no universally accepted definition of dyslexia, although it is a widely recognised condition, which is included in the World Health Organisation's International Classification of Diseases. Essentially, it is a neurological condition which affects the way the brain processes information and causes specific difficulty in writing, reading and spelling. Numeracy, verbal and listening skills, organisational and non-verbal skills may be affected. The employee may have difficulties with, eg sustained concentration, organising activities, expressing ideas clearly, presenting thought succinctly, keeping track of appointments, reading maps, remembering phone numbers, completing forms, finding his/her way around a strange place, remembering where things have been put, reading timetables, reading recipes, writing letters or cheques, remembering messages.

It is possible that the employee will have been diagnosed as dyslexic while at school and may have been statemented at that time, ie received a statement of Special Educational Needs. This may not be enough for the tribunal, but it will be very helpful.

The British Dyslexia Association provides an "adult dyslexia checklist" as a first self-diagnosing step. For a formal diagnosis of dyslexia, there are screening tests and full assessments which can be undertaken by specialists. If you obtain a medical report for the tribunal, it is likely that your expert will carry out some of the recognised tests.

### **The Legal Definition**

#### **Impairment**

Mental

### **Reasonable Adjustments**

Discuss options with the employee. Depending on the nature and severity of his/her dyslexia, there are numerous adjustments which could include:

- Provision of assistance
- Using clear typefaces and pastel or matt paper for documents and application forms
- Sending application forms by email or disc
- Notifying interview questions in advance in the waiting room
- Allowing time to read and complete tasks
- Providing dictionaries and electronic spell-checks, or colleagues to proof-read documents
- Giving verbal or written instructions according to which is easiest
- Using voicemail rather than written memos
- Communicating verbal instructions slowly and in a quiet location
- Recording important instructions on tape
- Offering help with prioritisation of tasks

- Providing a quiet work environment without distractions
- Providing appropriate technology, eg computer with pastel background to screen
- Support software including voice-activated software, hand-held tape recorder, digital camera, portable writing aids, scanning pen, talking calculator
- Allowing the employee to be accompanied to meetings and/or providing notes of content in advance and minutes afterwards
- Allowing more time for written tests
- Rather than handing out policy documents by way of induction, talking them through with the employee
- Not requiring written qualifications for a post, when general ability can be measured in a different way

## Sources of Further Information

The British Dyslexia Association: [www.bdadyslexia.org.uk](http://www.bdadyslexia.org.uk) Tel: 0118 966 8271 – The website includes a description of the effects of dyslexia plus the adult (self diagnosis) checklist. It also has a guide for employers including a detailed list of possible adjustments and descriptions of available technology.

An American site, Dyslexia Adults Link: [www.dyslexia-adults.com](http://www.dyslexia-adults.com) has many ideas for reasonable accommodation on its “in the workplace” page.

For a related condition, see the website of the Dyspraxia Foundation: [www.dyspraxiafoundation.org.uk](http://www.dyspraxiafoundation.org.uk)

The TUC has produced a useful guide for unions, “Dyslexia in the workplace: a guide for unions” which is available from the TUC’s publications department (stock code ER252). To order, search at [www.tuc.org.uk/publications/srchForm.cfm](http://www.tuc.org.uk/publications/srchForm.cfm) It contains useful checklists for identifying the impact on dyslexia on day-to-day activities; workplace difficulties; and ideas for reasonable adjustments. It also contains a small section on dyspraxia.

Ability Net is a charity providing free information and advice on computer technology for people with disabilities: Tel: 0800 269545 or [www.abilitynet.org.uk](http://www.abilitynet.org.uk)

# EPILEPSY

According to the British Epilepsy Association, one in 130 people in the UK have epilepsy – around 420,000 people altogether. There are many myths, fears and misconceptions around its effects. In general, one would expect the law to accept that epilepsy fell within the definition of disability under the EqA.

There are many different types of seizure and individuals are affected very differently. Most people are familiar with “tonic-clonic” (“grand mal”) seizures, where the person loses consciousness, falls to the ground, and has jerking movements for a couple of minutes. However, other forms of seizure can have quite different symptoms, eg “atonic” (sudden loss of muscle tone causing the person to fall), “myclonic” (brief forceful jerks, which may not lead to the person falling) or “simple partial”, where the person remains conscious but suffers disturbances to hearing, vision, smell or taste, or other symptoms which are often not apparent to onlookers. In some people, seizures may only occur at night. Under the law, people with any form of epilepsy may well be disqualified from driving on a temporary or permanent basis.

Anti-epileptic medication may reduce a person’s seizures significantly or remove them altogether. In such a case, the effects on a person if she/he were not taking the medication should be assessed.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

As always, adjustments depend on the nature and severity of the disability and the employee should be consulted. Employers need to provide safeguards against certain dangers for those whose seizures are uncontrolled, eg:

- Guards on machinery
- Protection for working at heights
- Chairs with arm rests and no casters
- Rubber mats on floor
- Ensuring the employee does not work alone at isolated sites

If the employee has photo-sensitivity:

- Avoiding fluorescent lights
- Anti-glare guard on the computer and a flicker-free monitor

## Sources of Further Information

British Epilepsy Association on [www.epilepsy.org.uk](http://www.epilepsy.org.uk) The site includes a detailed explanation of many different forms of seizure; the rules regarding driving; a list of occupations where there are statutory restrictions on employing people with epilepsy.

Ability Net is a charity providing free information and advice on computer technology for people with disabilities, including those with photo-sensitive epilepsy Tel: 0800 269545 or [www.abilitynet.org.uk](http://www.abilitynet.org.uk)

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/Epilepsy.html](http://www.jan.wvu.edu/media/Epilepsy.html) has useful suggestions on its epilepsy fact sheet.

## HEARING IMPAIRMENT

Action on Hearing Loss (formerly Royal National Institute of Deaf People) estimates that there are about 3.5 million people of working age who are deaf or hard of hearing, of whom 160,000 are severely or profoundly deaf. There are four levels of deafness, measured by the level of decibels which can be heard by a person's better ear: mild, moderate, severe and profound. People with moderate deafness will usually need a hearing aid and those with severe or profound deafness will usually rely on lip reading or sign language. Tinnitus is a buzzing, ringing or other noise heard in the ear or head. It can be temporary or permanent and vary in its severity.

The term "pre-lingually deaf" is used for those who were born deaf or lost their hearing in early childhood, before they acquired language. People who are pre-lingually deaf are the most likely to use sign language. BSL (British Sign Language) is the preferred language of approximately 50,000 people in the UK, but deaf people from different countries will have their own sign language. Other deaf people may use Sign Supported English or may not be able to sign at all.

The Labour Force Survey in 2001 showed that only 68.1 % of people of working age who had difficulty in hearing were in employment compared with 81.2% of people who were not deaf, hard of hearing or otherwise disabled.

### The Legal Definition

#### Impairment

Physical

#### Reasonable Adjustments

Always ask the employee. Possible adjustments, depending on the employee's level of deafness, whether she/he uses BSL and his/her level of English:

- Providing an interpreter/signer (BSL interpreters need to be booked well ahead)
- In meetings or training, good positioning for employee and interpreter. (Breaks for Interpreters)
- For shorter or less important messages, communication through written notes or email
- In meetings, provision of a speech to text operator (the operator types into a computer the deaf person reads off the screen)
- Speech recognition software (software is trained to recognise speaker's voice and turn words into computer text)
- For lip-reading in meetings, good lighting and positioning of speakers where they can easily be seen (a round table is best)
- Applying good practice principles also to disciplinary meetings
- Assistive listening devices, eg an induction loop or infra red system, in the office and training or meeting rooms
- Portable induction loops for training outside the office
- Good lighting in the office and meeting rooms (deaf people rely on visual clues)
- Good acoustics in the office; reduction of background noise from machinery, traffic or other people; thick carpeting

- Positioning employee in office where she/he can see colleagues and not in isolated position, eg with back to door
- Allowing more time for communication, meetings, tests
- Giving information in advance of meetings, training or induction. Providing minutes afterwards
- Telephone: provide amplification through the telephone; text phones; registering with Typetalk (a telephone relay service run by the RNID and funded by BT (for info, call 0800 500 888 (text) or 0800 7311 888 (voice)
- Use of plain English
- Deaf awareness training to colleagues and tutors of training courses

## **Sources of Further Information**

Action Hearing Loss has an excellent website at [www.actiononhearingloss.org.uk](http://www.actiononhearingloss.org.uk) There is a very practical “Don’t Panic Pack”. It is aimed at employers, but full of ideas useful for employees and is available at:

[http://www.usemyability.org/resources/files/don%27t%20panic\\_pack%20RNID%20employers.pdf](http://www.usemyability.org/resources/files/don%27t%20panic_pack%20RNID%20employers.pdf)

Although an American site, the Job Accommodation Network at [www.jan.wvu.edu/media/Hearing.html](http://www.jan.wvu.edu/media/Hearing.html) has a detailed and useful fact sheet.

# HEART IMPAIRMENT

There are many different types of heart condition and the symptoms will vary in each. The British Heart Foundation says almost 1 in 8 people have been diagnosed with a disease of the heart or circulatory system.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

Always consult the employee, but these may include reducing stress, physical exertion or tiredness and could be similar in some respects to those appropriate to someone suffering from fatigue, breathing difficulties, mobility or lifting difficulties. For ideas, see suggestions at pages 19 (Asthma) 22 (Back) and 43 (ME).

### Sources of Further Information

There are specific suggestions regarding reasonable adjustment in “Heart Conditions” fact sheet on the American website, Job Accommodation Network at [www.jan.wvu.edu/media/Heart.html](http://www.jan.wvu.edu/media/Heart.html)

## HIV/AIDS

It is estimated that 73,000 adults were living with HIV in the UK at the end of 2006. Of these, a third were unaware of their infection. Since 1999, heterosexually acquired HIV has led to a steep increase in the number of HIV diagnoses. There have been over 23,000 diagnoses of AIDS.

HIV attacks the body's immune system, making it hard for people to fight off infections and exposing them to serious illnesses. The effects can be weight loss, fatigue and weakness, respiratory impairment, light sensitivity or visual impairment, difficulty concentrating, chronic diarrhoea, the side-effects of medication, depression and psychological impact.

### The Legal Definition

HIV is deemed a disability as soon as it is diagnosed.

### Reasonable Adjustments

Always consult the employee. Medication has improved the health of people living with HIV enormously, but the side-effects of the drugs also have to be dealt with. Some people have to take a large number of pills daily at specific times and accompanied by dietary restrictions. Adjustments, depending on the nature and severity of the employee's condition, could include:

- Allowing flexi-time or the employee to start later
- Ensuring water is available
- Providing easy access to food or kitchens and being flexible over eating times
- Providing safe and confidential places for storage of medication
- Allowing the employee time off for medical appointments or if unwell
- Notifying the employee in advance of changes to routine, eg training days, travel or overtime requirements
- Nearby access to toilets (medication can cause chronic diarrhoea)
- Ergonomic chairs if severe weight loss
- Time-off for counselling; allowing telephone calls to emotional supports
- For weakness or fatigue: reduced hours, rest areas, breaks, reduced lifting and walking
- For difficulty in concentration, see adjustments suggested for Dyslexia p31
- For any visual impairment or light sensitivity, see adjustments suggested for Visual Impairment p56 or Migraine p47

### Sources of Further Information

Information is available from AVERT, an international AIDS charity: [www.avert.org](http://www.avert.org)

You can buy a briefing paper from the Employer's Forum on Disability at a low price ("Employment adjustments for people with HIV") through its website [www.efd.org.uk/publications/order-publications](http://www.efd.org.uk/publications/order-publications)

The National AIDS Trust has produced a resource pack – “HIV @ work: addressing stigma and discrimination” – find by searching on Google.

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/HIV.html](http://www.jan.wvu.edu/media/HIV.html) has useful suggestions on its HIV fact sheet.

## INFLAMMATORY BOWEL DISEASE

Crohn's disease and ulcerative colitis are two different forms of inflammatory bowel disease (IBD). They are both chronic diseases affecting the digestive track. About 1 in 400 people in the UK are affected by IBD. The main symptoms are abdominal pain, urgent diarrhoea, tiredness and weight loss. It is sometimes associated with fever, arthritis and inflammation of the eyes, mouth or skin. There can be long periods of remission with no symptoms, and unpredictable relapses when symptoms flare up to varying extents. Treatment is mainly by drugs and occasionally by surgery, but there is no permanent cure (except for ulcerative colitis, if the colon is surgically removed).

Irritable bowel syndrome (IBS) is a different condition altogether and not within the heading of IBD. However, certain symptoms are similar, eg a need to rush to the toilet. It is more common, but far less serious.

### **The Legal Definition**

#### **Impairment**

Physical

#### **Reasonable Adjustments**

Where continence is an issue, quick and easy access to a toilet is more important. The usual adjustments should be made in respect of pain and tiredness, eg:

- Breaks
- Shorter or flexible hours
- Avoiding rush hour travel
- Relocation of office to nearer home
- Home working

## LEARNING DISABILITY OR LEARNING DIFFICULTIES

People with learning disability (some prefer to say “learning difficulties”) are one of the most marginalised groups in society. Although a small proportion are successfully employed in a wide range of jobs, the vast majority have a level of unemployment below that of other disabled people. The government is keen to address the difficulty people with learning disability have in finding and keeping jobs.

There are no reliable statistics, but it is estimated that broadly 1.5 million people have learning disability in the UK, of whom approximately 300,000 have severe learning disability.

Learning disability is not a mental illness. It is a life-long condition acquired before, during or soon after birth, which affects intellectual development. The World Health Organisation defines learning disability as “a state of arrested or incomplete development of mind”, entailing a significant impairment of intellectual functioning or adaptive/social functioning. As with most disabilities, learning disability can be mild, moderate or severe.

People with learning disability generally find it harder to understand and remember new or complicated information, to generalise any learning to new situations, and to new skills, whether practical or social, eg communication or self-care. Some people may have difficulty speaking or be unable to read. Those with more severe difficulties may need help in getting dressed or making a cup of tea.

It is possible that the employee will have received a statement of Special Educational Needs while at school (sometimes referred to colloquially as being “statemented”). This may not be enough for a tribunal, but would be very helpful.

### The Legal Definition

#### Impairment

Learning difficulty is a recognised mental impairment, although it will need to be proved by expert evidence. *Dunham v Ashford Windows* [2005] IRLR 608, EAT.

#### Reasonable Adjustments

Discuss these with the employee and an appropriate helper or friend. Depending on the severity of the employee’s disability, adjustments could include:

- Allowing assistance with completion of a job application form
- Conducting the interview at a slow pace
- Asking short direct rather than long hypothetical questions
- Using practical rather than written tests
- Offering a work trial as an alternative means of assessing ability
- Providing training and ongoing support in new tasks
- Adding tasks one at a time
- Permitting low work hours, especially at first

- Speaking slowly in plain jargon free English
- Explaining procedures, eg for health and safety
- Explaining significance and potential consequences of disciplinary hearings
- Using graphics to assist understanding
- Training co-employees on effective communication and support

## Sources of Further Information

Useful websites:

Mencap – [www.mencap.org.uk](http://www.mencap.org.uk)

The British Institute of Learning Disabilities – [www.bild.org.uk](http://www.bild.org.uk)

Foundation for People with Learning Disabilities – [www.learningdisabilities.org.uk](http://www.learningdisabilities.org.uk)

Although aimed at employers, it is useful to look at “I want to work – a guide to employing people with a learning disability” – available on the Mencap website:  
[www.mencap.org.uk/document.asp?id=4396&audGroup=&subjectLevel2=&subjectId=&sorter=1&origin=pageType&pageType=112&pageno=&searchPhrase](http://www.mencap.org.uk/document.asp?id=4396&audGroup=&subjectLevel2=&subjectId=&sorter=1&origin=pageType&pageType=112&pageno=&searchPhrase)

## ME OR CHRONIC FATIGUE SYNDROME

ME (Myalgic Encephalomyelitis) is also known as Chronic Fatigue Syndrome (CFS), although strictly speaking there are some slight differences between the two. Occasionally it may be diagnosed as Post Viral Fatigue Syndrome.

It is estimated that there are up to 240,000 people with CFS/ME in the UK. Historically there has been much scepticism about CFS/ME, and unfortunately some GPs still hold the view that it is all in the mind. However, the government has now recognised that CFS/ME is a “debilitating and distressing condition”.

It has been found that people with CFS/ME have abnormalities in the nervous and immune systems, although these abnormalities are not properly understood. CFS/ME is difficult to diagnose. Much of the diagnosis is based on identification of core symptoms persisting over 6 months and taking tests to rule out other conditions.

Symptoms are very variable and can be mild or severe. The most common symptoms are overwhelming and persistent fatigue following mental or physical activity (often a delayed reaction), muscle pain, inability to concentrate, problems organising thoughts, memory loss, and sleep difficulties. Other symptoms may include dizziness, migraines, increased sensitivity to light and noise, digestive problems, irritable bowel syndrome, poor temperature control and feeling generally unwell. People with CFS/ME tend to have good days and bad days. Overdoing it on good days can worsen the symptoms. CFS/ME may also cause depression (see p25)

### The Legal Definition

#### Impairment

CFS/ME is a physical and arguably also mental impairment. Given the controversies and difficulties regarding its diagnosis, it may be useful to rely on the principle established by the Court of Appeal in *McNicol v Balfour Beatty Rail Maintenance Ltd.* [2002] IRLR 711, CA

#### Reasonable Adjustments

International research suggests that between 25 – 50% of people with CFS/ME are unable to maintain previously held employment, while substantial proportions of those who do maintain employment report decreased work performance. Nevertheless, as the severity of symptoms does vary, it is important to identify adjustments which will enable a certain proportion to continue in work. These could include:

- Reducing or changing working hours or allowing flexi-time
- Working from home
- Increased rest breaks and self-paced workload
- Arrangement of workplace so less walking or physical exertion is necessary
- Reduced stress
- Memory aids, eg organisers and written job instructions
- Minimised distractions
- Controlled workplace temperature

- Modified dress code
- No fluorescent lighting; window blinds
- See also adjustments relevant to Migraine (p47), Depression (p25), for some forms of muscle weakness, see RSI (p51)

## **Sources of Further Information**

Action for ME has an informative website from which you can download “All about ME: an introduction” via [www.afme.org.uk/booklets.asp](http://www.afme.org.uk/booklets.asp)

The ME Association also provides information: [www.meassociation.org.uk](http://www.meassociation.org.uk)

The Department of Health’s website at [www.doh.gov.uk](http://www.doh.gov.uk) contains details of the government’s investment in the development of clinical services for CFS/ME.

The section on CFS/ME on the Job Accommodation Network website, even though an American site, is extremely useful: [www.jan.wvu.edu/media/employmentcfsfac.doc](http://www.jan.wvu.edu/media/employmentcfsfac.doc)

## MENTAL HEALTH ISSUES

The Mental Health Foundation says 1 in 4 people in the UK will experience some kind of mental health problems in the course of a year. A complete list of mental and behavioural disorders is given in the World Health Organisation's International Classification of Diseases (ICD-10). Depression and anxiety are the two most common forms of mental illness. It is estimated that 1 in 6 people will have depression at some point in their life. Clinical depression is dealt with in more detail at p25.

### **Mental health issues include:**

#### **Manic Depression or Bi-Polar Affective Disorder:**

This is a mood disorder, where a person's mood swings from depression to euphoric. About 1 in 100 people have manic depression, but there is great variation in the pattern of mood swings and some people have long periods with no problems. Symptoms during the depression phase are as described on p25. Symptoms of the manic phase may include speeding up of thought and speech, inappropriate optimism, gross overestimation of personal ability, unrealistic plans and poor judgement. A person may experience hallucinations and delusions in both phases. Treatment can be by antidepressants, tranquillisers, sleeping pills and therapy.

#### **Schizophrenia:**

About 1 in 100 people have one episode of schizophrenia and two thirds of these have further episodes. During an episode, a person may lose touch with reality and experience delusions and visual or auditory hallucinations. An episode may last a few weeks. Longer-lasting symptoms include tiredness, lack of energy and loss of concentration. Treatment is usually by medication for lengthy periods. The drugs may have unpleasant side-effects.

#### **Post-Traumatic Stress Disorder (PTSD):**

This is a reaction to witnessing or experiencing a traumatic event, eg rape, sexual harassment, an accident or natural disaster. Common symptoms include flashbacks and nightmares, severe anxiety, poor sleep and depression. Counselling and anti-depressants are often prescribed.

#### **Obsessive Compulsive Disorder (OCD):**

This involves repetitive obsessional thoughts and compulsive behaviour to relieve anxiety, eg repeated washing to avoid germs or going back to check the oven is switched off when leaving the house. Other fears can include fear of making a mistake or behaving unacceptably or causing harm to someone else. Counselling and therapy is the usual treatment and the employee may also take medication.

#### **Paranoid Personality Disorder:**

Paranoia may be a symptom of another mental health problem or it may be considered a disorder in itself. Symptoms can include being very suspicious and misconstruing friendly or neutral behaviour as hostile, belief in conspiracy theories, extreme sensitivity to rejection, and holding grudges.

**Panic Disorder:**

Panic attacks cause extremely unpleasant physical sensations, including breathlessness, palpitations, and dizziness and sweating. The person has an intense sensation of fear and sometimes feels they are going to die.

**Agoraphobia** see p17

**Seasonal Affective disorder (SAD)** see p53

**The Legal Definition****Impairment**

Mental

It is no longer necessary to prove that a mental illness is clinically well-recognised. It is still helpful to identify a particular condition, but if this is difficult, adverse effects can in themselves amount to impairment. See *McNicol v Balfour Beatty* [2002] irlr 711, CA

**Reasonable Adjustments**

Always consult with the individual regarding suitable adjustments. Many of the adjustments suitable to ordinary Depression (p25) will be suitable here.

**Sources of Further Information**

The Mental Health Foundation has an excellent website including fact sheet on the A-Z of conditions at [www.mentalhealth.org.uk](http://www.mentalhealth.org.uk)

The Job Accommodation Network, an American website, provides a very useful fact sheet on accommodating people with Post-Traumatic Stress Syndrome at [www.jan.wvu.edu/media/ptsd.html](http://www.jan.wvu.edu/media/ptsd.html)

The TUC's 'Representing and supporting members with mental health problems at work: Guidance for trade union representatives' is available at [www.tuc.org.uk/extras/mentalhealth.pdf](http://www.tuc.org.uk/extras/mentalhealth.pdf)

# MIGRAINE

The Migraine Trust says that nearly 6 million people in the UK suffer from migraine and estimates that each working day, up to 90,000 people are absent from work or school due to migraine. In a 2002 report, the World Health Organisation ranked migraine amongst the world's top 20 disabling conditions. Yet migraine, frequently is not taken seriously.

Migraines are not ordinary headaches. Migraine is a condition of recurring headaches of a particular kind. There are often other symptoms, eg sensitivity to light and noise, eyesight changes, lethargy and nausea. About 15% of migraine sufferers have migraine with "aura", ie neurological symptoms such as changes in sight (zigzags, dark spots etc), disturbances to speech and hearing or, more rarely, partial paralysis. Migraine attacks usually last one or two days.

## The Legal Definition

### Impairment

Physical

### Reasonable Adjustments

The difficulty with migraines is their unpredictability. reasonable adjustments may be either to prevent attacks or to enable employees with less incapacitating migraine to work during attacks. Always ask the individual, but examples of adjustments could be:

- Time off (paid or unpaid) or flexible hours
- Home working during an attack (sometimes it is travel to work which is unmanageable)
- No fluorescent lighting
- Computer glare guards
- Reduced visual or auditory distraction; an environmental sound machine to block out noise
- Avoiding any identified trigger factors at work (long hours without regular food breaks; night working; fan heaters)
- Allowing food at work station
- Keeping the employee off night shifts if these trigger migraines, even if other employees do not want to work night shifts for reasons unrelated to disability.

### Sources of Further Information

The Migraine Trust is very informative. It has a newsletter and website on [www.migrainetrust.org](http://www.migrainetrust.org) and tel: 0207 436 1336 or (helpline) 0207 436 2880. There is an information pack "Working with Migraine" including tips for migraine sufferers at work and best practice guidance for employers, available as a free download: [www.migrainetrust.org/C2B/document\\_tree/ViewADocument.asp?ID=135&CatID=93](http://www.migrainetrust.org/C2B/document_tree/ViewADocument.asp?ID=135&CatID=93)

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/Migraine.html](http://www.jan.wvu.edu/media/Migraine.html) has useful suggestions on its migraine fact sheet.

## MOBILITY IMPAIRMENT

Mobility impairment can be due to leg or foot impairment, general muscular weakness, illness or injury. People may not need an aid, or may use an aid some or all of the time, eg a stick, crutches or a wheelchair. Depending on the reason for the mobility impairment, a person may have other impairments. A wheelchair user may have full, partial or no use of his/her upper limbs.

### The Legal Definition

#### Impairment

Physical

#### Reasonable Adjustments

Appropriate adjustments will depend very much on the nature of the impairment and the individual should be consulted. Possibilities could include:

- Wheelchair accessible toilets Handrails in toilets
- Non-slip grips on stairs
- Accessible routes between office and car park, toilets, coffee machine, colleagues
- Location of office, meetings, training on ground floor or with lifts or ramps
- Corridors, hallways, reception areas and walking routes with sufficient space and obstruction free
- Where the employee uses lifts, establish safe fire evacuation procedures
- Reduction of the need to carry files or heavy objects around, eg by better layout, mechanisation, computerisation, assistance of an unskilled employee to lift and move
- Adjusting office layout – height adjustable desk; accessibility of files, equipment, photocopier, coffee machine from a seated position
- If restricted use of upper limbs – automatic stapler; writing aids; voice-activated telephone or head-set. See also adjustments suggested for RSI (p51)
- Widening doorways; ramps for wheelchair users
- Relocating light switches, door handles and shelves within reach
- Designated car parking space close to the office, even if this normally reserved for senior managers

#### Sources of Further Information

The American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/Wheelchair.html](http://www.jan.wvu.edu/media/Wheelchair.html) has a fact sheet on adjustments for office employees who use wheelchairs.

A useful site concerning plantar fasciitis: [www.heelspurs.com/index.htm](http://www.heelspurs.com/index.htm)

## MULTIPLE SCLEROSIS

Multiple Sclerosis (MS) affects approximately 85,000 people in the UK. It is a complex neurological disorder affecting the central nervous system. Potentially it affects a whole range of physical or mental functions, but most people only experience a few aspects.

Possible symptoms are muscle weakness, most commonly in the legs, spasms or tremors, dizziness and balance difficulties, pain from poor posture or positioning, visual disturbance, speech disorders, needing to go to the toilet frequently and urgently, severe fatigue, pain, problems with short-term memory and concentration. Symptoms vary in their severity and duration, and can be exacerbated by heat, exercise (raising body temperature), stress and overwork. The symptoms of MS come and go and can be in remission for very long periods.

### The Legal Definition

MS is now deemed a disability on diagnosis. Older case law, which suggests that MS may not always be covered, can be disregarded particularly *Mowat-Brown v University of Surrey* [2002] IRLR 235, EAT

### Sources of Further Information

The Multiple Sclerosis Society at [www.mssociety.org.uk](http://www.mssociety.org.uk)

Although an American website, the Job Accommodation Network site at [www.jan.wvu.edu/media/MS.html](http://www.jan.wvu.edu/media/MS.html) has useful suggestions on it MS fact sheet.

The TUC estimates each year 400,000 people suffer from upper limb or neck disorders. The Health and Safety Executive says it is estimated that 4.1 million working days were lost in 2001/2 through musculoskeletal disorders mainly affecting the upper limb and necks, caused or worsened by work.

RSI (Repetitive Strain Injury) is an umbrella term for a range of painful conditions affecting the musculoskeletal system. An alternative umbrella term for many of these injuries is Work Related Upper Limb Disorder (WRULD). The Health and Safety Executive uses the term ULD (Upper Limb Disorder) under a general heading of Musculoskeletal Disorders, which also includes back pain (p22).

RSI is usually caused or aggravated by work and is associated with repetitive movement, sustained or constrained postures and/or forceful movements. It includes many different localised conditions, eg bursitis, carpal tunnel syndrome, tenosynovitis, tendonitis, epicondylitis (including tennis elbow), writers' cramp, white finger or Raynaud's Syndrome. There is also Diffuse RSI, which spreads through areas of the body and is harder to diagnose.

Employees particularly at risk include those using computers, working on assembly lines, manual labourers, bus and lorry drivers, cashiers, cooks, cleaners and housekeepers, hairdressers and ambulance employees. RSI is a growing problem with the vast increase in computerisation.

### **The Legal Definition**

#### **Impairment**

Physical

#### **Reasonable Adjustments**

As always, appropriate adjustments will depend on the individual situation and the employee should be consulted, but they could include:

- The employer should carry out a risk assessment – the Health and Safety Executive has produced risk assessment checklists. The employer should also set up internal reporting system and monitor early signs of RSI
- Reviewing designs of tools, workplaces and tasks; keeping tools lightweight, sharpened, lubricated and easy to use; powered versions if possible; mechanical moving of loads; smaller loads and reduced carrying distances; levers; training on lifting techniques; tools and equipment to meet individual needs; ensuring women need not use tools designed for men. Redesign of tasks to minimise repetitive movement. Redesign of workstation so everything is within easy reach; adjustable work benches; proper ergonomic design. Reduced conveyor belt speed. Reduced use of vibrating tools; vibration absorbing grips; rubber flooring to absorb vibration. Reduction of time working

in cold environment; warm breaks; protective clothing, though gloves can increase problem by making grip difficult.

- Providing electronic staplers, easy grip pens, headset telephone. Restricting intensive keyboard work; keeping deadlines reasonable; training in touch typing; good lighting to avoid hunching to see screen; document holders; adjustable chair; alternatives to mouse; voice recognition software; payment for eye tests – in any event, employers must pay for eye tests if requested, where the employee uses a VDU as a significant part of his/her work.
- In general: avoiding of repetitive work and incentives to carry it out at a high pace; breaks for rest and recovery; giving employees more control over work rate and breaks; variation of tasks and job rotation.
- Training on risks.
- Reduction of stress (mental or physical).
- Time off to recover, with staged return, and to improved workplace (otherwise injury will recur)
- Letting a job candidate with RSI take an administrative test using voice-activated software, if this is how he/she would carry out the job if he/she were appointed
- Different or longer training on new machinery for employees with restricted hand or arm movements
- Relocating light switches, door handles or shelves for someone who has difficulty reaching

## Sources of Further Information

The London Hazards Centre operates an advice line on 0207 794 5999 and has produced an extremely useful handbook (“RSI Hazards Handbook”, 1996,) on its website at [www.lhc.org.uk/members/pubs/books/rsi/rsi\\_toc.htm](http://www.lhc.org.uk/members/pubs/books/rsi/rsi_toc.htm) The TUC has a basic guide on its website [www.tuc.org.uk](http://www.tuc.org.uk)

RSI Awareness (RSIA) is at [www.rsi.org.uk](http://www.rsi.org.uk) there are a number of fact sheets on different conditions and its information pages are very informative.

The Health and Safety Executive has an informative section on musculoskeletal disorders and upper limb disorders on its website [www.hse.gov.uk](http://www.hse.gov.uk). There are various guides available at [www.hse.gov.uk/msd/information.htm](http://www.hse.gov.uk/msd/information.htm). For example, you can download “Display Screen Equipment (Working with VDUs)” and “Aching arms (or RSI) in small businesses”. You can send off for further information in “Upper Limb Disorders in the Workplace”.

Ability Net is a charity providing free information on computer technology for people with disabilities. Tel 0800 269545 or [www.abilitynet.org.uk](http://www.abilitynet.org.uk)

## SEASONAL AFFECTIVE DISORDER (SAD)

SAD is a type of depression which has a seasonal pattern, most commonly occurring in the winter months when daylight hours are shortest. Symptoms tend to fade away as Spring approaches. People can be affected in the summer, but this is rare and has different symptoms.

Some managers do not take SAD seriously, believing it is a product of the employee's imagination, but it can be a serious disabling illness. The term SAD was invented in 1984 and is now included in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (one of two standard diagnostic manuals used by psychiatrists for diagnosis). SAD is also recognised by the NHS. According to the NHS Choices, around 1 in 50 people in the UK has SAD and the condition affects twice as many women as men. People can be affected at any age, but SAD is most common for those aged 18-30.

SAD is diagnosed when there is a relationship between the onset of major depressive episodes and a particular time of year, eg autumn or winter, with full remissions also occurring at a characteristic time of year, eg spring. In 30% of cases, people experience a seasonal mood swing from depression to elation, which may even amount to a hypomania if severe. The American Psychiatric Association's diagnosis says the seasonal pattern must have occurred in the previous 2 years, there having been no non-seasonal major depressive episodes in that period. SAD may not be suggested if there is some other seasonal cause of depression, eg seasonal unemployment.

SAD's symptoms are characteristically those associated with depression, eg feeling low, decreased energy, increased irritability, concentration difficulties, anxiety and social withdrawal. Additionally, most people develop symptoms less common in classical depression, eg needing more sleep and a tendency to oversleep, difficulty staying awake during the day, incapacitating fatigue making normal tasks very difficult, increased appetite and craving for carbohydrates.

The most successful form of treatment is phototherapy – daily exposure to high intensity broad-spectrum light, usually provided by a specially designed light box. Certain anti-depressant drugs may help, but not the ones which exacerbate lethargy and need to sleep. Cognitive Behaviour Therapy may help some people cope with the symptoms.

There is a milder form of SAD which is still clinically significant, sometimes known as 'subsyndromal SAD (S-SAD)'. This milder form may be known as 'winter blues'. It is estimated that one in eight people have this milder condition.

### **The Legal Definition**

#### **Impairment**

Mental and physical

## **Reasonable Adjustments**

The obvious adjustment is to supply a light box. For sub-syndromal SAD, Reasonable Adjustments may be as simple as letting the employee sit by a window and take tea-breaks outside.

These kinds of adjustments would be unlikely to assist in the rare cases of summer SAD.

Adjustments appropriate to many forms of depression may also help with the feelings of tension, irritability and lethargy – see Depression p25

## **Sources of Further Information**

The Seasonal Affective Disorder Association offers support to those suffering from SAD and provides some basic information on its website [www.sad.org.uk](http://www.sad.org.uk)

## SHOULDER, ARM OR HAND IMPAIRMENT

Disabilities connected with arms or hands are amongst the commonest form of disability founding cases under the EqA.

### **The Legal Definition**

#### **Impairment**

Physical

#### **Reasonable Adjustments**

Suitable adjustments are similar to those for RSI (p51) or Back impairment (p22)

#### **Sources of Further Information**

See sources listed under RSI Page 51

## VISUAL IMPAIRMENT

The Royal National Institute of Blind People (RNIB) estimates there are approximately 140,000 blind or partially sighted people of working age, but only 27% of these are in employment. This is a much lower figure than for people with disabilities generally, let alone compared with the entire population of working age. This is not surprising. RNIB research indicates that 9 out of 10 employers believe employing a blind person would be difficult or impossible. Moreover, over 75% of employees eventually lose their job if they lose their sight.

Well over a million people have some form of visual impairment. There are many different eye conditions of varying severity, some of which may slowly deteriorate. Some conditions involve loss of peripheral vision alone or central vision alone, blurred or patchy eyesight. The effect on the person's ability to see will vary and can cause others to think there is less difficulty than is in fact the case.

### The Legal Definition

#### Deemed disability

Employees registered with a local authority or certificated by a consultant ophthalmologist as blind or partially sighted are deemed disabled without the need to prove stages of the definition.

#### Impairment

Physical

### Reasonable Adjustments

As always, consult the employee. Depending on the nature and severity of his/her condition, reasonable adjustments could include:

- Allowing a working dog on the premises
- Provision of written information (eg recruitment packages and application form, training manuals, minutes of meetings, letters and memos, time tables, schedules) in large font, hand-written in thick black pen, Braille,
- on audio tape
- Application forms with larger spaces as employee's handwriting may be larger than average.
- Readable print: 14 or 16 point font; black or dark ink; white or yellow paper; matt not glossy paper; plain type faces, particularly for numbers; evenly spaced words and unjustified right hand margins; no italics or continuous capitals; simple and uncramped lay-out
- Provision of written materials in advance of training
- Providing information, eg recruitment packs, well in advance of any deadlines
- Document holder for desk; hand-held magnifier, enlarging photocopier
- Thick black pen or audio tape recorder for taking notes
- Large PC Monitor; keyboard with large print letters
- Adapted software plus training and time to learn to use it, eg PC with a magnification system; a text scanner to transfer text on paper to screen; voice-activated software;

speech output software (converts text on screen to speech); computer Braille display (transforms text on screen to Braille).

- Support employee or reader for some of the time
- Appropriate lighting, reduction of glare, specialist lighting
- Colour contrasts in office and building; colour strips on edge of stairs
- Alternative transport to driving
- On recruitment interviews, training or meetings at new places, meeting the employee at reception
- Orientation training on starting job
- Evacuation partner for emergencies
- For those losing their sight while in work, disability leave for intensive rehabilitation
- Removing clear glass doors from the end of a corridor
- Providing a support employee to accompany the employee if he/she needs to make home visits

## **Sources of Further Information**

The RNIB has an excellent website at [www.rnib.org.uk](http://www.rnib.org.uk). The site includes a description of common eye conditions, technology information sheets, guidance on web accessibility and the “See it right” pack on producing accessible written information. The latter is available at [www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public\\_seeitright.hcsp](http://www.rnib.org.uk/xpedio/groups/public/documents/publicwebsite/public_seeitright.hcsp). To fully benefit from its services, however, it is necessary to get in contact with the RNIB 0845 766 9999

Tiresias is the RNIB’s scientific research unit. Its website is also informative [www.tiresias.org/index.htm](http://www.tiresias.org/index.htm)

An American Site, the Job Accommodation Network, has a fact sheet, “Worksite accommodation ideas for individuals with vision impairments” at [www.jan.wvu.edu/media/sight.html](http://www.jan.wvu.edu/media/sight.html)

Ability Net is a charity providing free information and advice on computer technology for people with disabilities TEL: 0800 269545 or [www.abilitynet.org.uk](http://www.abilitynet.org.uk)

SCOPE – provide information and advice for retaining staff with any disability (not just Cerebral Palsy), please contact your local Disability Employment Advisor at Job Centre Plus for further details of this service.

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## **Credits:**

This guide has been based on the Providing Disability and Reasonable Adjustments – An Employee’s Guide to evidence under the DDA by Tamara Lewis. The documentation has been updated with the items listed above to make it relevant to the Equality Act 2010.

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